

MINUTES OF THE LAFAYETTE COMMON COUNCIL
December 3, 2007
REGULAR MEETING

The Common Council of the City of Lafayette, Indiana met in regular session on Monday December 3, 2007 at 7:00 p.m. in the City Hall Council Chambers, 20 North 6th Street, Lafayette, Indiana.

President Weast-Williamson called the meeting to order at 7:00 p.m.

The Pledge of Allegiance was given to the flag of our Country.

The following members were:

Present: Heide, Klinker, Meyer, Campbell, Brown, Rhoda, Smith, Weast-Williamson and Probasco.

The City Clerk stated that there was a quorum present.

City Clerk Cindy Murray and City Attorney Ed Chosnek were present.

Councilman Campbell moved to approve the minutes from the November 5, 2007 regular meeting. Councilman Brown seconded. The motion passed by unanimous voice vote.

The Clerk stated that there were no Claims, Petitions or Communications.

The Clerk stated the following reports are available in the City Clerk's Office:

Water Works Plant-Monthly-October 2007

Water Pollution Control Monthly - October 2007

Police Department Monthly – October 2007

Motor Vehicle Monthly & Fleet Maintenance Dept- October 2007

Clerks Office Monthly- October 2007

Ordinances for Second Reading:

The Clerk read Ordinance 2007-32 (An Ordinance to Transfer money within the Local Roads and Streets Fund) by title only on second and final reading. Councilman Probasco moved for passage, Councilman Heide seconded. Mike Jones, City Controller, spoke on behalf of the proposal. Ordinance 2007-32 passed 8-0 on a roll call vote on second and final reading.

The Clerk read Ordinance 2007-33 (An Ordinance to Transfer money within the Budget of the Fire Department) by title only on second reading and final reading. Councilman Meyer moved for passage, Councilman Klinker seconded. Mr. Jones, spoke on behalf of the proposal. Ordinance 2007-33 passed 8-0 on a roll call vote on second and final reading.

The Clerk read Ordinance 2007-34 (An Ordinance to Transfer money within the Budget of Animal Control Department) by title only on second and final reading. Councilman Meyer moved for passage, Councilman Brown seconded. Mr. Jones, spoke on behalf of the proposal. Ordinance 2007-34 passed 8-0 on a roll call vote on second and final reading.

Ordinances for First Reading:

The Clerk read Ordinance 2007-35 (An Ordinance to Amend the Zoning Ordinance of Tippecanoe County, Indiana to Rezone Certain Real Estate from PDRS to R3, Charles Hockema, Petitioner-

Twyckenham Blvd between Poland Hill and Old 231) by title only on first and final reading. Councilman Meyer moved for passage, Councilman Probasco seconded. Dan Teder, Attorney representing the petitioner, explained the property had been rezoned in 2003 from R3 to PDRS for the purpose of building condominiums. Mr. Teder stated he was informed by the Area Plan Commission because no project was filed using the PDRS zoning it was deemed abandoned after a two year period and could revert to R3 zoning per their policy, therefore the area needs rezoned be used in another project. Mr. Teder stated his petitioner plans to build market rate apartments with restrictive covenants per the request of the City and Mayor Roswarski. Mr. Teder requested the following portion of a Warranty Deed be read into the record as follows:

“Grantor “Main Source Bank” restricts the use of the real estate by prohibiting any state, federal, or municipal program which includes any subsidy, voucher, or incentive to affect a market rate rental unless written approval is obtained from the City of Lafayette. This restriction shall run with the real estate and is binding on the Grantor, its successors, and assigns. This restriction is also granted for the benefit of the City of Lafayette, Indiana. The City of Lafayette, Indiana shall have the right to enforce this restriction by any remedy available at law or equity including, but not limited to, seeking injunctive relief.” Councilman Rhoda questioned Mr. Teder as to who in the city he had meetings with regarding the restrictive covenants. Mr. Teder stated he met with the Mayor and the City Attorney, due to the Mayor being the City Official that would have to sign forms to allow subsidized vouchers. Mayor Roswarski stated we do not need anymore subsidized housing in the City of Lafayette; problems still exist in local complexes that are not being dealt with properly by Federal Housing and Urban Development (HUD). Councilman Meyer stated that there’s still HUD housing in Lafayette that is sitting vacant. Councilman Meyer also questioned why the proposed area could not remain PDRS. Mr. Teder responded, the area can still be zoned PDRS per the Area Plan Commission, but there are no current plans for that use. Councilman Meyer requested the record reflect that the Council cannot pass a zoning ordinance conditional on restrictive covenants. Ordinance 2007-35 passed 6-2 on a roll call vote on first and final reading as follows;

Ayes; Heide, Klinker, Meyer, Probasco, Brown and Smith

Nays: Campbell, Rhoda

The Clerk read Ordinance 2007-36 (An Ordinance to Amend the Zoning Ordinance of Tippecanoe County, Indiana to Rezone Certain Real Estate from PDRS to PDMX, Mennen Builders, Petitioner-Lafayette Medical Park PD east of Creasy Lane) by title only on first and final reading. Councilman Heide moved for passage. Councilman Meyer seconded. Mr. Teder, representing the petitioner explained the proposal, stating after the land was purchased by Doug Mennen, Mr. Mennen met with resident/owners of the Cross Creek Lake Condominiums. Both parties agreed no more condominiums were needed, therefore Mr. Mennen proceeded with plans to build a three unit small Medical Complex in the area. Due to restrictive condominium covenants already in place for the land, consent was needed from the Cross Creek Lake Home Owners Association to make changes. With the assistance of Mr. Chosnek, City the petitioner and the homeowners were able to come to an agreement that would allow Cross Creek Home owners to approve final building plans before signing the covenant changes. Bruce McKinsey, 1391 Clear Vista Dr. and Treasurer of the Home Owners Association, expressed support on behalf of the group as long as their conditions are met. Mr. Teder explained that if the builder does not come to an agreement with 67% of the homeowners, the property would then revert back to its original PDRS zoning. Councilman Campbell stressed to the homeowners, that The Common Council has no authority to enforce any agreement between the parties. Ordinance 2007-36 passed 8-0 on a roll call vote on first and final reading.

The Clerk read Ordinance 2007-37 (An Ordinance to Amend the Zoning Ordinance of Tippecanoe County, Indiana to Rezone Certain Real Estate from PDRS to MR, Mennen Builders, Petitioner-Creasy Lane) by title only on first and final reading. Councilman Meyer moved for passage, Councilman Probasco seconded. Mr. Teder, representing the petitioner, explained the proposal involves access roads necessary for the success of Ordinance 2007-36 previously heard. Ordinance 2007-37 passed 8-0 on a roll call vote on first and final reading.

The Clerk read Ordinance 2007-38 (An Ordinance to Amend the Zoning Ordinance of Tippecanoe County, Indiana to Rezone Certain Real Estate from R1 to GB, Dale and Roberta Dexter, Petitioners-3029 Old Romney Road) by title only on first and final reading. Councilman Campbell moved for passage, Councilman Smith seconded. Councilman Campbell moved to table ordinance 2007-38 until time certain January, 7, 2008 at the request of the petitioner. Councilman Brown seconded. The Motion to table Ordinance 2007-38 passed 7-0, with Councilman Meyer abstaining on a roll call vote on first and final reading as follows:

Aye: Heide, Klinker, Probasco, Campbell, Brown, Rhoda and Smith

Abstained: Meyer

Nay: None

Resolutions:

The Clerk read Resolution 2007-14 (A Resolution Approving a Deduction for Tax Abatement in an Economic Revitalization Area-Subaru of Indiana Automotive Inc.-SIA) by title only on first and final reading. Councilman Probasco moved for passage, Councilman Meyer seconded. Doug Meyer, Senior Manager of Legal and Governmental Affairs for Subaru, spoke on behalf of proposal stating the abatement is for one hundred million dollars (\$100,000,000) worth of equipment for production of the next generation model Subaru Legacy and Outback. SIA is also seeking abatement for four million nine hundred thousand dollars (\$4,900,000) for a warehouse to house parts and inventory. Councilman Rhoda expressed concern over granting tax abatements to companies not creating new jobs. Discussion ensued regarding the use of tax abatements. Mayor Roswarski spoke in support of the abatement, stating the need to assist our local companies to remain competitive in a global economy. Pearl Speakman, 923 So. 22nd Street, spoke in opposition of the abatement. Purdy Miller, 180 Aretz Lane, supported the abatement, but expressed concern that SIA is not using local vendors for outsourced services. Ken Weller, 533 So. 28th Street, spoke in opposition to the abatement. Councilman Meyer stated the Memorandum of Agreement protects the City if they leave the community or remove their equipment. President Williamson requested the record reflect that Section L put in the Memorandum of Agreement has a section that states applicant will try to use local suppliers and contractors, and that the requested abatement is for a period of ten (10) years. Resolution 2007-14 passed 7-1 on a roll call vote on first and final reading as follows:

Ayes: Heide, Klinker, Meyer, Probasco, Campbell, Brown and Smith

Nays: Rhoda

The Clerk read Resolution 2007-15 (A Resolution Approving Detail of the 2008 Water & Wastewater Budget) by title only on first and final reading. Councilman Brown moved for passage, Councilman Campbell seconded. Kerry Smith, Superintendent Water Works, and Brad Talley, Superintendent Water Pollution Control, presented the budgets. Resolution 2007-15 passed 8-0 on a roll call vote on first and final reading.

The Clerk read Resolution 2007-16 (A Resolution to Approve the Amended Lafayette Housing Consortium Home Program and Action Plan or 2007) by title only on first and final reading. Councilman Probasco moved for passage, Councilman Heide seconded. Aimee Jacobsen, Community Development Director, spoke regarding the request. Resolution 2007-16 passed 8-0 on a roll call vote on first and final reading.

There were no Reports of Standing Committees.

There were no Reports of Special Committees.

Due to technical difficulty with the audio system, the remaining portion of the Council meeting was not recorded.

Report by the Mayor.

Mayor Roswarski thanked members of the Council for their work over the last four years. Mayor Roswarski praised outgoing Council Jack Rhoda, Dennis Probasco, and Mike Smith for their service to the community.

Miscellaneous or New Business:

Councilman Smith read the following letter to Aloud:

It has been my pleasure and privilege to serve as the 6th district's City Councilman for eight of the past twelve years, during the first Heath administration and Roswarski administrations. I was fortunate to have found employment with the Lafayette School Corporation 32 years ago and to have been able to live, work, and raise my family here since then. Lafayette has always been a great place to live, but during the past twelve years, great strides have been made to make it an even better place to live, as evidenced by the many awards and recognitions that it has received. I'm proud to have been a small part of that progress.

I'm also proud of the past bi-partisan nature of our council. In reviewing the minutes of the past four years especially, I find very few times when our votes were anything but unanimous. And when they weren't, the split was seldom if ever along party lines. We were fortunate to avoid the acrimony that plagues so many other elected bodies at every level of government. I'd like to thank Mayor Roswarski for fostering that atmosphere and for appointing me to the Area Plan Commission. Crazy as it may seem, I enjoyed those meetings. That gesture of confidence and bi-partisanship on his part is an example of the way local government should operate. Very little of what we actually do here is 'partisan,' beyond running for re-election every four years, of course. What is "Republican" or "Democrat" about trash collection, police and fire protection, transportation improvements, rezones and most of the other issues that came before us on the city council? Unanimity and amity have been the common denominators in our council dealings more often than not. I hope nine Democrats can get along as well as we all did for the past four years! Once in a while, I was able to make a difference on an important issue before this council, and I am glad I had that opportunity.

I hope the efforts to build a municipal skate park are not abandoned. I hope the neighbors near Tate & Lyle's north and south plants can continue to count on council support in their efforts to preserve their quality of life in a challenging environment where industry co-exists so closely with residential areas. I hope the landscaping along the Greenbush Street improvements is replaced in the spring. I hope a sidewalk can be built along Pine Lane linking Sanctuary, Twin Oaks, Vinton Woods, and Greenbriar to Munger Park. I hope we have turned a corner in dealing with our annual budgetary problems and that Mike Jones can stand here with good news next year. I hope good uses can be found for the soon-to-be vacant hospital properties, the empty stores at Market Square, and elsewhere. I hope the downtown continues to be an example of what can be done to keep a city's center vibrant. The city has so many challenges like this, but I'm sure they will be met with success by the hard working men and women of the city council and the departments of Lafayette's municipal government.

I wish 6th district councilman-elect Bob Downing, 1st district councilman-elect Rick Cornstuble, and 4th district councilwoman-elect Julie Novak the best of luck in the next four years. Your historic sweep of all nine council seats was quite an accomplishment. Congratulations. With that accomplishment, however, comes the onus of greater responsibility and accountability. Be good stewards of our city's future. Lafayette's citizens deserve nothing but the best, so give them nothing but your best!

I look forward to the future without looking back to the past with any regret or remorse. While I must be honest and say I'd rather be sitting here again for the next four years, I'm confident that the city's business will be well taken care of by its newly-elected officials and the fine department heads and their employees that manage the city's business on a daily basis. I'll be watching with interest like all the other citizens of this great city. Thank you for the opportunity to have served on this council. It's been a great honor. Good night and good luck to you all.

Reports of Councilman:

Councilman Probasco moved to reappoint Don Teder and John Thieme Jr. to the Redevelopment Commission, for one year terms. Councilman Campbell seconded. The Motion passed by unanimous voice vote.

Public Comment:

President Melissa Weast-Williamson stated that each public comment would be limited to three minutes so that all citizens will have an equal chance to speak.

Donn Brown, 1235 Meadowbrook Drive, spoke regarding recent issues involving Councilman Klinker. Ed Chosnek, City Attorney advised Mr. Brown this meeting was not the appropriate place to discuss the events, considering there is possible litigation pending. Mr. Brown continued to request action against Councilman Klinker and asked how to file necessary paperwork with the City Clerks Office. Cindy Murray, City Clerk, requested it be done during business hours so it can be properly logged. Mr. Brown also spoke in opposition of a smoking ordinance.

Lloyd Wells, 3712 Rawlings, Drive spoke against any proposed smoking ordinance.

Thomas Nisen, 814 N 14th St spoke against any proposed smoking ordinance.

President Weast Williamson reminded citizens there is no proposed smoking ordinance before the Council at this time.

With no further business to come before the Council, Councilman Campbell moved to adjourn, Councilman Probasco seconded. Meeting was adjourned at 8:55 pm.

Minutes prepared by Cindy Murray, City Clerk

Partial audio of meeting available in the City Clerks office or at www.lafayette.in.gov